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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/654,858	09/05/2000	Tony Altwies	CLB25-D71	7820

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EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 02/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/654,858

Examiner

Firmin Backer

Applicant(s)

ALTWIES ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

This is in response to a letter for patent filed on September 5th, 2000 in which claims 1-17 are presented for examination. Claims 1-17 are pending in the letter.

Specification

1. The disclosure is objected to because of the following informalities: Figs 1-5 in the brief description of the drawing should be described as prior arts.

Appropriate correction is required.

Claim Objections

2. Claim 6 is objected to because of the following informalities: As per claim 6 applicant disclose, "*an improved method for selling and distributing electronic data over wide-area computer networks each the computer in the network comprising input means, output means, processing means, and network communication means*". Examiner objects to the use of the word "means" in a method claim. Applicant is advised to make appropriate correction by deleting the word "means" in order to overcome the examiner's objection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Biddle et al (U.S. Patent Application Pub. No. 2002/0107809 A1).

5. As per claim1, Biddle et al teach an improved system (*improved distribution system, 20*) for electronic data (*software*) sales and distribution (*distribution*) over wide area computer networks (*internet, 35*) (*see abstract figs 1, 2, page 2, paragraphs 0013, 0015, and 0016, page 4 paragraph 0049*), the networks comprising a network conduit (*data links 45, 50 and 55*), at least one e-commerce server computer (*distributor 25, vendor 40*) in communication (*interconnected*) with the network conduit (*see fig 1, page 4, paragraph 0049*), , and at least one customer terminal computer (*user computer, 30*) in communication (*interconnected*) with the network conduit, each the computer comprising input means, display means, processing means, storage means and means for communicating with the network conduit (*see page 4 paragraph 0050*), the system comprising e-commerce site means (*distributor 25, vendor 40*) for presenting e-commerce functions (*online transactions enabling purchase*) to each the customer in communication with the e-commerce server computer via the network conduit (*see fig 1, page 5,*

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paragraph 0053, 0054) licensing module means (license server, 82) for giving (allowing) each the customer terminal computer permission to download (download) a program module (software application) to the customer terminal computer (user computer, 30), the licensing module means comprising an executable software application being executed (run license application, on each the customer terminal computer engaged in the improved system (see fig 17, page 5 paragraph 0054, 0055, page 6 paragraph 0056, 0057, 0058) and program download site means (distributor 25, vendor, 40) for providing a program module (software application) for downloading (downloading) to each the customer terminal computer responsive to a user request (see fig 1, page 5, paragraph 0054 (bottom)).

6. As per claim 2, Biddle et al teach an improved system wherein the e-commerce site means comprises an executable software application being executed by the processing means of the e-commerce server computer and the program download site means comprises an executable software application being executed by a processing means in a program module server computer, the e-commerce server computer and the program module server computer being distinct from one another (*see fig 1, page 5, paragraph 0053, 0054*).

7. As per claim 3, Biddle et al teach an improved system wherein the e-commerce site means further provides each the customer terminal computer with the ability to download the licensing module means (*see fig 1, page 5, paragraph 0053, 0054*).

8. As per claim 4, Biddle et al teach an improved system further comprising a supplier terminal computer (*distributor 25*) in local area network communication with the program module server computer (*see fig 1, page 5, paragraph 0053, 0054*).

9. As per claim 5, Biddle et al teach an improved system wherein the functionality of the program module is responsive to output from the licensing module, the program module and the licensing module each comprising executable software applications, wherein output from the licensing module is input to the program module when the program module and the licensing module are executed on the processing means of a single computer (*see fig 1, page 6, paragraph 0056, 0057*).

10. As per claim 6 Biddle et al teach an improved method for selling and distributing (*improved distribution system, 20*) electronic data (*software*) over wide-area computer networks (*internet, 35*), each the computer (*user computer, 30*) in the network comprising input means, output means, processing means, and network communication means (*see fig 1, page 4, paragraph 0049*), the method comprising creating a licensing module (*license server module, 82*) comprising an executable software application (*tools, 67, 68, 69 or 71*) (*see fig 1, page 5, paragraph 0054, 0055*), creating a program module (*licensing data base 49*) comprising an executable software application responsive to output from the licensing module (*see fig 2, page 6 paragraph 0057*); and distributing the licensing module separate from the program module (*see fig 2 page 5 paragraph 0054, 0055, page 6 paragraph 0056, 0057, 0059*).

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11. As per claim 7, Biddle et al teach an improved method wherein the distributing step comprises licensing module distributing and program module distributing, the licensing module distributing being executed by e-commerce site means and the program module distributing being executed by program download site means (*see fig 1, page 5, paragraph 0054, 0055*).

12. As per claim 8, Biddle et al teach an improved method wherein the licensing module distributing comprises the e-commerce site means transferring the licensing module from an e-commerce server computer to a customer terminal computer via a wide-area network (*see abstract figs 1, 2, page 2, paragraphs 0013, 0015, and 0016, page 4 paragraph 0049*).

13. As per claim 9, Biddle et al teach an improved method wherein the program module distributing comprises the program download site means transferring the program module from a program download computer to a customer terminal via a wide-area network (*see fig 2 page 5 paragraph 0054, 0055*).

14. As per claim 10, Biddle et al teach an improved system for software distribution (*improved distribution system, 20*) over wide area computer networks (*internet, 35*), the networks comprising a network conduit (*data links 45, 50 and 55*), at least one e-commerce server computer (*distributor 25, vendor 40*) in communication (*interconnected*) with the network conduit, at least one customer terminal computer (*user computer, 30*) in communication with the network conduit, and at least one supplier server computer (*distributor 25, vendor 40*) in communication (*interconnected*) with the network conduit, each the computer comprising at least

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one programmable computer comprising input means, display means, processing means, storage means and means for communicating with the network conduit (*see abstract figs 1, 2, page 2, paragraphs 0013, 0015, and 0016, page 4 paragraph 0049, 0050*), the system comprising e-commerce site means (*licensing server, 82*) for distributing licensing modules (*licensing*) to each the customer terminal computer via the network conduit; and program download site means (*distributor 25, vendor 40*) for distributing program modules (*software*) to each the customer terminal computer via the network conduit (*see fig 1, page 5, paragraph 0053, 0054, 0055*).

15. As per claim 11, Biddle et al teach an improved system wherein the e-commerce site means comprises an executable software application being executed on the e-commerce server computer (*see fig 1, page 5, paragraph 0053, 0054*).

16. As per claim 12, Biddle et al teach an improved system wherein the program download site means comprises an executable software application being executed on the supplier server computer (*see fig 1, page 5, paragraph 0053, 0054*).

17. As per claim 13, Biddle et al teach an improved system wherein the licensing modules and the program modules each comprise executable software applications for execution on programmable computers, each the licensing module cooperating with one the program module to function as a whole software application (*see fig 1, page 5, paragraph 0054, 0055*).

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18. As per claim 14, Biddle et al teach an improved system wherein each the distribution of one the program module is responsive to the prior execution of one the licensing module on one the customer terminal computer (*see fig 1, page 5, paragraph 0053, 0054*).

19. As per claim 15, Biddle et al teach an improved system wherein each the distribution of one the program module commences automatically in response to user input to the executed licensing module through the input means of the customer terminal computer (*see fig 1, page 5, paragraph 0053, 0054*).

20. As per claim 16, Biddle et al teach an improved system wherein the execution of the program module defines a licensed condition and an unlicensed condition, the program module executes in the licensed or unlicensed condition responsive to output from the licensing module (*fig 2, page 6 paragraph 0057*).

21. As per claim 17, Biddle et al teach an improved system wherein execution of the program module in the unlicensed condition is permitted for a pre-defined period of time, whereby expiration of the pre-defined period of time will prevent the program module from further execution (*see fig 9 and 10, page 6 paragraph 0059*).

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. *Bean et al (U.S. Patent No. 6,460,023) teach a software authorization system and method that a developer to provide licensed software or content files to a customer where the license revenues to the developer increase as the scale of the customer's site expands because the authorization system is easily scaleable.*

b. *Clark (U.S. Patent No. 6,343,280) teaches a method of protecting from unauthorized, unlicensed use. The method requires modification of the executable code of the software to be protected such that certain portions of the executable code operate on a License Server while the software to be protected operates on the authorized user's computer. The License Server may be any computing device that can secured against access by the Software User and which can communicate across potentially unsecured channels to the Software User's computing device.*

c. *Krishana et al (U.S. Patent No. 6,073,124) teach digital commerce is performed using the secure digital commerce system as follows. A customer invokes an online purchasing system to request an item of merchandise and to indicate a purchasing option (such as "try" or "buy"). The DCS client then downloads onto a customer computer*

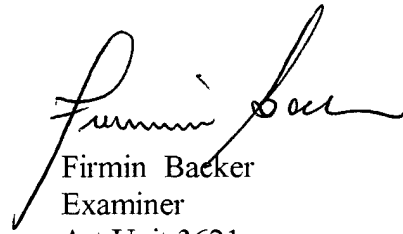
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system the client components that are associated with the requested item. Included in these components is a secured content component.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Firmin Backer
Examiner
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January 23, 2003